

6 July 1983

STAT NOTE FOR:

[redacted]  
Deputy Director of Personnel

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[redacted]  
Deputy Director of Personnel  
for Special Programs

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[redacted]  
Chief, Administrative Law Division, OGC

STAT FROM:

[redacted]  
Chief, Legislation Division, OGC

SUBJECT: Social Security

Attached is a copy of the sources and methods protection  
language which we drafted last March.

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Attachment

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7 March 1983

NOTE FOR: Stanley Sporkin  
General Counsel

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Deputy Director of Personnel

STAT   
Associate General Counsel for  
Administrative Law

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Special Assistant to the  
General Counsel

STATFROM:   
Chief, Legislation Division

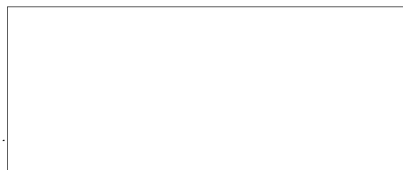
SUBJECT: Amendment to Social Security Act Legislation  
to Assure Protection of Intelligence Sources,  
Methods, Activities, and Identities of Personnel

Attached for your review is a proposed amendment to the pending Social Security Act legislation to take care of security problems arising from the integration of intelligence personnel into the Social Security system. In deciding whether to pursue an amendment along these lines, you should consider the relative merits of such an amendment against the benefits of relying on existing statutory authority to accomplish the same ends. The attached proposed amendment has been drafted in a manner intended to leave that existing authority intact.

I have also attached an internal-use-only explanation which explains the practical effect of the proposed amendment.

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Attachment



PROPOSED AMENDMENT TO SOCIAL SECURITY ACT LEGISLATION

## PROTECTION OF NATIONAL SECURITY ACTIVITIES

SEC. \_\_\_\_\_. (a) Notwithstanding any other provision of this Act, of the Social Security Act (Public Law 74-271, as amended), or of subtitle C or chapter 2 of subtitle A of title 26, United States Code, with respect to the personnel of any department or agency within the Intelligence Community (as defined in subsection 3.4(f) of Executive Order 12333, December 4, 1981 or successor orders), this Act, the Social Security Act, and subtitle C and chapter 2 of subtitle A of title 26, United States Code, shall be administered in a manner consistent with the protection of the identities of such personnel and consistent with the protection of intelligence sources, methods, and activities, under such regulations as the Secretary of Health and Human Services, the Secretary of the Treasury, and the Director of Central Intelligence shall jointly prescribe.

(b) The regulations required by subsection (a) of this section shall be prescribed and administered without regard to chapter 5 of title 5, United States Code, and shall be exempt from any requirement for publication or disclosure. Such regulations shall include, but shall not be limited to, procedures for secure handling of information, records, tax revenues, and benefit payments.

EXPLANATION

After January 1, 1984, all newly hired federal employees will be covered under the Social Security system, including newly hired employees of United States intelligence agencies. Incorporating U.S. intelligence personnel into the Social Security system, particularly into its records systems and data bases, presents a clear danger of compromising the identities of intelligence personnel and intelligence sources, methods, and activities.

Subsection (a) of the proposed amendment grants joint authority to the Secretary of Health and Human Services (for the Social Security Administration), the Secretary of the Treasury (for the Internal Revenue Service), and the Director of Central Intelligence (for the Intelligence Community) to provide regulations for implementing the Social Security Act and related Internal Revenue Code provisions in a manner protecting the security of U.S. intelligence activities and personnel. The subsection does not exempt newly hired U.S. intelligence personnel from coverage in the Social Security system; it only provides that with respect to U.S. intelligence personnel the system will be administered in a manner which preserves the secrecy of intelligence matters.

Subsection (b) of the proposed amendment provides the secrecy necessary in the prescription and administration of the joint regulations required under subsection (a), by providing for the inapplicability of the Administrative Procedures Act and of laws which would require the publication or disclosure of the joint regulations. The subsection also ensures that, at a minimum, the joint regulations will provide for security in handling information, records, tax revenues, and benefit payments with respect to intelligence personnel.

EXPLANATION

- (1) Provides for joint regulations to protect intelligence equities in administering the following laws:

"This Act"--H.R. 1900, the current Social Security Act amendments legislation

"the Social Security Act"--P.L. 74-271 as amended over the years

"subtitle C . . . of title 26"--the employment taxes provisions of the Internal Revenue Code.

"chapter 2 of subtitle A of title 26"--the self-employment income tax provisions of the Internal Revenue Code.

- (2) Protects intelligence equities on an Intelligence Community-wide basis.
- (3) Protects against compromise of identities of personnel.
- (4) Protects against compromise of intelligence sources, methods, and activities.
- (5) Provides that promulgation and administration of the joint regulations shall not be subject to the Administrative Procedures Act so that the following do not apply:
- normal notice-and-comment rulemaking requirements applicable to federal agencies.
  - formal adjudication requirements normally applicable to federal agencies.
- (6) Provides that the joint regulations shall be exempt from publication or disclosure (e.g., under FOIA).
- (7) Specifically provides that the joint regulations must at least provide for secure handling of information and transactions.
- (8) Note that administration of the laws "consistent with protection" of intelligence equities would, if necessary, require appropriate handling of records/cases involving people who are not themselves intelligence personnel, e.g., spouses and dependents of undercover personnel if their entitlements are due to the Social Security coverage of an intelligence employee.